IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL APPLICATION NO.4407 OF 2006

Shri.Shafikumar Rehman Abdul
Sattar Khan .. Applicant.

V/s.

The State of Maharashtra .. Respondent.

Shri.Ajit Ram Pitale for the applicant.
Shri.Rajesh More, A.P.P. for the state.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 18TH DECEMBER, 2006.

P.C.:

1. The applicant apprehends arrest in connection with R.C.C.No.131 of 1989 which is pending in the court of J.M.F.C. Karjat. The R.C.C. alleges offences punishable u/s.379 r/w. Sec.34 of Indian Penal Code. The applicant-accused is alleged to have committed theft of aluminium wires from the Maharashtra State Electricity Board (M.S.E.B.) premises worth Rs.2,000/-. He was

prosecuted but enlarged on bail. It is his case that once the criminal case was assigned to dormant file, the applicant was awaiting further notice/summons but none being received, he did not attend the court. The J.M.F.C., Karjat however, proceeded on the basis that the applicant is avoiding attending the trial and issued non-bailable warrant. That is how the applicant applied for anticipatory bail apprehending arrest in pursuance thereof. His application is rejected by the Additional Sessions Judge, Raigad mainly on the ground that the applicant did not produce any proof of his residence at the address mentioned in the application. However, the learned Judge has observed that the applicant has produced Ration Card, electricity bills and telephone bills. Therefore, merely because he did not attend the case which is pending since 1989, should not have been a ground to deny him protection.

2. I granted protection to the applicant by an ad-interim order on 14th December, 2006. I recorded the submission of the applicant’s advocate that he would file Undertaking in this court incorporating all relevant details pertaining to his residence so also a specific statement that he would attend the court on all dates

unless exempted. Accordingly, an affidavit has been filed on 15th December, 2006 undertaking that the applicant would attend the case unless exempted, he would not leave the limits of local police station without prior permission of the trial court and that in case he desires shifting his residence, he shall inform Neral Police station prior to shifting.

3. The applicant's Advocate Shri.Pitale submits that the applicant has undertaken to cooperate in expeditious disposal of the case as well. In such circumstances, the applicant is granted pre-arrest bail in connection with R.C.C.No.131 of 1989 pending before J.M.F.C., Karjat.

4. In the event, the applicant is arrested in pursuance of non bailable warrant issued by the J.M.F.C., Karjat, he shall be enlarged in the sum of Rs.10,000/- with one or two local sureties and subject to the undertaking filed in this court on 15th December, 2006.

5. The applicant to attend the J.M.F.C. court on 26th December, 2006 at 11.00 a.m. The J.M.F.C. thereafter to proceed with the case and dispose of the same as expeditiously as possible and in any event within

a period of three months from the date of order. Non bailable warrant stands cancelled. However, this does not prevent the J.M.F.C. from taking such proceedings as are permissible in law in case there is a breach of undertaking given to this court so also the conditions stipulated in this order. In case the applicant fails to attend without seeking exemptions, the learned Judge can proceed to issue a non bailable warrant as well. Needless to state that this court can take also action against the applicant for breach of the undertaking given to the court. Keeping all such remedies open, the present application is allowed.

6. Hence, the following order : -

i) In the event of the arrest of applicant in connection with R.C.C.No.131 of 1989 registered with J.M.F.C., Karjat, applicant shall be enlarged on bail in the sum of Rs.10,000/- (Rs.Ten thousand only) with one or two sureties in the like amount.

ii) The bail is granted subject to condition that the applicant will attend the J.M.F.C., Karjat.

iii) Bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against them so as to dissuade him from disclosing such facts to the Court or to the police officer/investigating agency. The applicant shall not tamper with the prosecution evidence.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

v) This order will ensure to the benefit of the applicant only till chargesheet is filed. Thereafter, he will be free to apply to the appropriate court for appropriate relief.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

(S.C.Dharmadhikari, J.)